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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,493	03/08/2002	Tsutomu Watada	NIL-176	1276

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EXAMINER

LUEBKE, RENEE S

ART UNIT PAPER NUMBER

2833

DATE MAILED: 05/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/092,493

Applicant(s)

WATADA & NAKAZAWA

Examiner

Renee S. Luebke

Art Unit

2833

The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9 is/are rejected.
- 7) ☒ Claim(s) 8, 9 and 11 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 March 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6 & 7. 6) ☐ Other: ____

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on March 16, 2001. It is noted, however, that applicant has not filed a certified copy of the Japanese application as required by 35 U.S.C. 119(b).

2. The drawings are objected to because section lines (i.e. SA) should be labeled to reflect the figure where the section view is to be found. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. Claims 8, 10 and 11 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot be dependent upon another multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 8, 10 and 11 have not been further treated on the merits.

4. Claim 1 is objected to because on line 1, it appears that "of" should be changed to -for-, and on line 8 "relation" should be deleted.

Claims 7 and 9 (when dependent upon claim 4) are objected to because "the ring shaped first fixed portion" and "the ring shaped second fixed portion" on lines 4 and 6, respectively, lack antecedent basis.

Appropriate corrections are required.

5. Claims 2-7 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 2 and 3 initially claim a "positioning structure" and include structure in the preamble. However, the limitations following the preamble, on which a patentability determination would be based, are to steps of a positioning method. Both the structure and the method cannot be claimed in the same claim.

Art Unit: 2833

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Halberg, et al. This inhibitor switch comprises the claimed structure and is used as claimed. In particular, the positioning method comprises temporarily fastening the housing 12 and moving block 20 with an easily broken portion 64, fixing the switch on the automobile (column 3, line 31-33), and then releasing the members by breaking the easily broken portion (column 3, lines 33-35).

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hayasaki is a further example of positioning the switch members prior to installation.

9. **Any response to this action may be mailed to:**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

For additional information regarding this new address, which was effective May 1, 2003, see *Correspondence with the United States Patent and Trademark Office*, 68 Fed. Reg. 14332 (March 25, 2003).

or faxed to:

(703) 872-9318 or 308-7722 or 308-7724

(informal or draft communications should be clearly labeled "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to:

Crystal Plaza 4, Fourth Floor (Receptionist)

2201 South Clark Place, Arlington, Virginia.

Art Unit: 2833

10. Any inquiry concerning this communication from the examiner should be directed to Mrs. Renee Luebke whose telephone number is (703) 308-1511.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mrs. Paula Bradley, can be reached at (703) 308-2319.

A handwritten signature in black ink, appearing to read 'R. Luebke', is positioned above the printed name.

Renee S. Luebke
Primary Patent Examiner
May 9, 2003